Supreme Court, U.S.
FILED
APR 15 1993
OFFICE OF THE CLERK

No. 92-1245

In The

Supreme Court of the United States

October Term, 1992

VASILIOS ANAGNOSTOU,

Petitioner,

vs.

UNITED STATES OF AMERICA,

Respondent.

REPLY BRIEF OF VASILIOS ANAGNOSTOU TO BRIEF IN OPPOSITION OF THE UNITED STATES

SOLOMON I. HIRSH
ROBERT H. ARONSON
Suite 714
100 West Monroe Street
Chicago, Illinois 60603
(312) 372-7123

Attorneys for Petitioner

Chicago Legal Copies Inc. (312) 332-7777

NO. 92-1245

IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1992

VASILIOS ANAGNOSTOU,

Petitioner,

vs.

UNITED STATES OF AMERICA,

Respondent.

REPLY BRIEF OF VASILIOS ANAGNOSTOU TO BRIEF IN OPPOSITION OF THE UNITED STATES

ARGUMENT

The brief of the United States, at page 4, contains a statement on the penultimate line thereof that "Anthony told the authorities that he had never touched the gas valve, ..." That is untrue.

Peter Anthony was interviewed twice by Federal agents in the course of their investigation of the explosion at the restaurant. Though Peter Anthony died before trial, the prosecutors possessed the reports of those interviews. In opposing Anagnostou's motion to dismiss the indictment on the grounds of pre-indictment delay, the prosecutors made a written proffer which contained the reports of their agents' interviews with Peter Anthony (Record -- Document 33 -- Government's proffer -- Exhibits B and C attached). Those reports, included in the Appendix hereto, clearly indicate that Peter Anthony told the ATF agents that he manipulated the gas valve behind the oven at least twice. Yet, the opinion of the Seventh Circuit, at page 6, contains a statement that Anthony told investigators that he never touched the

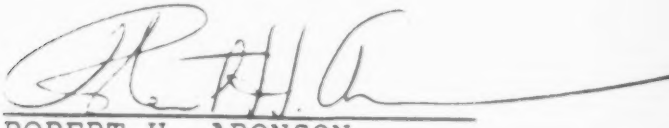
main gas valve. That misstatement was brought to the attention of the Seventh Circuit in Anagnostou's petition for rehearing. The petition for rehearing was denied.

Now, the Solicitor General perpetuates this critical misstatement of fact. All of this only goes to highlight the impossibility of securing a fair trial where the substantial prejudice caused by the pretrial death of the only witness capable of informing the jury of exactly what he did to test for gas leaks resulted in a denial of Petitioner's due process rights. The pre-indictment delay of four years, eleven months and two weeks without a valid excuse caused substantial prejudice to the Petitioner, which is now highlighted by the errors committed by

the Seventh Circuit and the Solicitor General.

Respectfully submitted,

SOLOMON I. HIRSH



ROBERT H. ARONSON
Suite 714
100 West Monroe Street
Chicago, Illinois 60603
312/372-7123

Attorneys for Petitioner

APPENDIX

SUPPLEMENTAL REPORT CASE #85-22926
CONTINUATION

ANTHONY, Peter J.
M/W, DOB: 6/30/25
SS#: 350-18-2022
2120 West Belle Plaine
Chicago, IL 60618
248-2671

The interview was conducted on 10 December 85, 1100 hours, at 150 North Wacker Drive, Chicago, IL, in the office of Mr. George D. Karcazes, who is the attorney for Peter J. Anthony. Present for the interview were Investigator Robert Gibson, Mount Prospect Police Department, #135, Special Agent Tony Wietrzychowski, United States Treasury Department, Bureau of Alcohol, Tobacco, and Firearms, Mr. Peter J. Anthony and his attorney, George D. Karcazes.

Upon arrival at Mr. Karcazes's office, George Karcazes introduced us to a subject by the name of Peter J. Anthony.

R/I's asked Mr. Anthony if he would produce an Illinois Drivers licence to us at which time Mr. Anthony replied he doesn't carry his drivers license with him because he doesn't drive. He went on to say that he has diabetes of the eye and this is one of the reasons he doesn't drive. He did admit to driving occasionally. He did show us a social security card with social security number 350-18-2022 with the name of Peter J. Anthony on it. He also showed us a hospital card with his name on it.

Anthony related that he resides in Chicago at 2120 West Bell Plaine Avenue and has lived there for approximately 45 years. His phone number is 248-2671. At the present time he is on a disability and is unemployed. He was employed at the company of BET, located in Harvey,

Illinois. His knowledge in the trades are carpentry and he was also a general contractor years ago. Anthony related that his date of birth is June 30, 1925.

In summary, Anthony related the following information:

On 25 November 85, at approximately 3:00 p.m. to 3:30 p.m. he arrived at the Honey Bee Restaurant, located at 720 East Rand Road, Mount Prospect, Illinois, and met with Bill Anagnostou, who is the owner of the Honey Bee Restaurant. Anthony said he has been friends with Bill Anagnostou for approximately 20 years. He went on to say that he visits the restaurant, Honey Bee, approximately three to four times a month for a bowl of a soup and a cup of coffee with Bill. That particular

day, Bill told Anthony that he smelled gas by the stove and asked Anthony if he knew what could be wrong. Anthony asked Bill how long the flex pipe line was on the stove and Bill related to him that it has been on a long time. Anthony related that the strongest odor of gas could be smelled by this flex line. Anthony related that the cook told him that he smelled gas by the stove also. Anthony related that he visually checked the line and did not see any cracks in this line.

At this time, Anthony went out to the car that he was driving which was parked outside the Honey Bee in the parking lot and got his tools from the car. He went back into the Honey Bee kitchen area and shut the gas off to the stove by turning the

valve off which was located behind the stove. He then removed the old flex line with his tools. The tools used were a pipe wrench and a crescent wrench which both belong to Anthony. Then Anthony and Bill walked across the parking lot to the Courtesy Home Center with the old flex line which Anthony had removed. While at Courtesy Home Center, Bill purchased a new flex line and some white tape for the threads of this line. Anthony related that Bill knew the salesman that waited on them. Bill showed the salesman the old line and then the salesman matched it up with a new one and then Bill took the items to the check out counter and paid for them in cash. Anthony did not know how much Bill paid for these parts

but did say he believes they would have cost anywhere around $14 to $15.

They both returned to the Honey Bee Restaurant and Anthony attempted to put the new flex line on the stove to the gas line but found that the fittings were not the correct size. Anthony and Bill then returned to Courtesy and again spoke to the same salesman and got another flex line with the proper fittings. They both returned to the Honey Bee Restaurant and Anthony put on the new flex line between the stove and the gas line. Anthony related that when he connected the flex line to the gas pipe, the pipe he connected to was an older pipe. He also related that he related that he replaced no other parts except the flex line which was gray in color. He also indicated that he

observed no irregularities of the valves condition except that it was dirty and appeared to be old.

After installing the new line, Anthony then turned the gas valve back to the on position and checked the connections that he made by lighting a match and putting the match by the connectors. Anthony related that while he was doing the work on the gas line, that Bill was there watching him. No leaks were indicated. Anthony related that an old gas man taught him the way to check for leaks with the match. Anthony then related that he put his tools away and went into the restaurant seating area and had a cup of coffee with Bill. When asked what he had done with the old flex line that he removed Anthony related that

he left it on top of a green file cabinet in the kitchen area by the stove. When R/I's asked Anthony if he pushed the stove back in place against the wall, he related that he did not. He also related that he did not relight the stove or the oven pilots. He doesn't know who did relight the stove and oven nor if they were ever relit. Anthony related that he has the tools that he used to work on the gas line and related that after he did the work, he gave the tools to his brother and he is willing to give the tools to us. He said he will get them from his brother and make arrangements to turn the tools over to us this week. When asked about what type of vehicle Anthony owns, he related that he doesn't own a car.

On 25 November 85, he was driving a friend's car. The friend's name is Susan Favelli, who lives around Highland Park. He does not know the exact address. The car he was driving was a Ford Fairmont station-wagon. When asked why he would have his tools in the borrowed car, Anthony related that he put the tools in the car to give to his brother. Anthony related that he left the Honey Bee Restaurant at approximately 4:30 p.m. or 5:00 p.m. and drove directly home to Chicago stayed there all night. Anthony stated that he lives alone and had no one else at the house that night.

R/I's asked Anthony when was the first time that he heard of the explosion which occurred at the Honey Bee Restaurant. He related that he

heard it on the radio approximately two days after which would have been Wednesday or Thursday. He related that Bill Anagnostou did not call him and advise him of the explosion nor did he call Bill after hearing the news on the radio.

Mr. Anthony related that we could speak to him again if we needed to do so and would cooperate in any way he can but he would request that his attorney, Mr. George Karcaze, be present for any further questioning.

On 10 December 85, R/I's ran a criminal history check on Peter J. Anthony which revealed no criminal history. A 10-27, drivers license check, ran on Peter J. Anthony indicated drivers license number, A53567025185 which lists address of 227 Highwood Avenue, Highwood, Illinois.

A soundex ran on Susan Favelli indicates an address of 227 Highwood Avenue, Highwood, Illinois. Criminal history check ran on Susan Favelli indicates no prior criminal arrests.

Copies of criminal history sheets and 10-27 information are attached and to be made part of this case report.

INVESTIGATOR _____ STAR 131

SUPERVISOR _____

REPORT OF INTERVIEW

with Peter J. Anthony, on February 11, 1986, at 10:00 a.m., in the office, and presence of Federal Public Defender Luis Galvan, 230 S. Dearborn, by S/A Anthony Wietrzychowski, ATF.

Mr. Anthony states as follows:

That the hospital he went to for treatment on November 25, 1985, was the Veteran's Hospital in North Chicago, Illinois. He indicated that he had gone to the hospital in the morning and then went to the Honey Bee Restaurant that afternoon.

That while at the restaurant, he did not go to the Courtesy Home Center a second time that afternoon. That Bill Anagnostou went the second time and got a fitting. That when Bill went to the Courtesy store, someone else went with him.

Mr. Anthony stated that when he took his tools from the restaurant to his brother's house, he meant his brother

Nick Anthony. Mr. Anthony also stated that his brother lives at 2120 W. Belle Plaine in Chicago. He also stated that he, Peter, lives upstairs from his brother in the attic portion of the house, and that he and his brother do not live together.

Also, that he placed the tools in his brother's front room and that they were never used. He stated he knows that because that is what his brother told him.

He also commented that the reason his drivers license indicates he lives at 227 Highwood, Highwood, IL, is because he lived there about one year ago. He added that when he moved back to the 2120 W. Belle Plaine address, he disregarded notifying the Secretary of State's office of the change.

Anthony J. Wietrzychowski

S/A Anthony J. Wietrzychowski